

## ORDINANCE 1

## SERIES 2000

November 30, 1999: Introduced as Council Bill No. 16, Series of 1999, by Tim Roble, seconded by Dixon Shay, and considered by title only on first reading. Passed unanimously.

January 18, 2000: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 1, Series 2000.

AN ORDINANCE AMENDING REQUIRED PLATTING LANGUAGE CONTAINED IN TITLE 7, CHAPTER 4, SECTION 5 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE.

WHEREAS, The City of Cherry Hills Village Municipal Code contains Chapter 7, entitled "Subdivisions", and

WHEREAS, Chapter 4 of Title 7 contains required plat language to be included on all plats considered by the Planning Commission and City Council, and

WHEREAS, The City Council has determined that portions of the plat language require changes to more accurately reflect the City's intent in accepting dedications and to correct certain language.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. §7-4-5(A) is hereby amended to read:

A. *Certificate of Dedication and Ownership:*

*Know all men by these presents, that the undersigned, being all of the Owner(s), Mortgagee(s), and Lienholder(s) of certain lands in the City of Cherry Hills Village, Arapahoe County, Colorado, described as follows:*

*Beginning \_\_\_\_\_ etc., containing \_\_\_\_\_ acres, more or less, the undersigned have by these presents laid out, platted and subdivided the same into lots, blocks and tracts, as shown on this plat, under the name and style of*

*and do hereby dedicate to the City of Cherry Hills Village for public use the streets and roads shown hereon, including drives and lanes, the public lands shown hereon for their indicated public use, the recreational trails shown hereon for non-motorized, recreational use by the public in the manner similar to other public trails throughout the City of Cherry Hills Village, subject to the applicable laws and ordinances of the City of Cherry Hills Village, and for use by vehicles appropriate for the maintenance of the trail easements by the City or its contractors. The undersigned hereby further dedicate to the public all utility easements and drainage easements shown hereon for utility and drainage purposes only.*

*The undersigned hereby further dedicate to the public utilities the right to install, maintain and operate mains, transmission lines, service lines and appurtenances to provide such utility services within this subdivision of property contiguous thereto, under, along and across public ways, including but not limited to, public roads, streets, lanes and drives as shown hereon, and also under, along and across utility easements as shown hereon.*

*The lands comprising this subdivision are subject to certain covenants that are recorded in*

Book \_\_\_\_\_ at Page \_\_\_\_\_ of the records of Arapahoe County, Colorado.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Owner(s): \_\_\_\_\_ Mortgagee(s) and Lienholder(s): \_\_\_\_\_

S.S.

County of Arapahoe

The foregoing dedication was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.

Witness my hand and seal.

My commission expires \_\_\_\_\_

Section 2. §7-4-5(C) is hereby amended to read as follows:

C. Title Certificate:

I, \_\_\_\_\_, an attorney licensed to practice law in the State of Colorado, certify that I have examined title to the above-described land dedication to the City of Cherry Hills Village, the public, and public utilities and that the party(ies) executing the dedication have merchantable title to the above-described real property and is(are) well seized of the property dedicated by this plat and has(have) good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple and has(have) good right, full power and lawful authority to dedicate the same in manner and form as aforesaid, and that same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature except those of record.

By \_\_\_\_\_  
Attorney

Section 3. §7-4-5(D) is hereby amended to read as follows:

D. Planning and Zoning Commission Approval:

This plat was recommended for approval by the City of Cherry Hills Village Planning and Zoning Commission this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By \_\_\_\_\_  
Chairman

Section 4. §7-4-5(E) is hereby amended to read as follows:

E. It is mutually understood and agreed by the subdivider and the City of Cherry Hills Village that the dedicated public roads shown on this plat will not be maintained by the City until and unless the subdivider constructs the streets and roads in accordance with the subdivision agreement, if any, and subdivision regulations in effect at the date of the recording of this plat and approval of the City has issued to that effect. Roads dedicated to the public must remain free from defect for a period of one year from the date that road construction is complete as determined by the City. The developer shall provide the City with a letter of credit issued by a bank acceptable to the City, in an amount equal to the cost of the road improvements plus ten percent (10%) for contingencies. Said letter of credit shall remain in place until the anniversary of the road's completion and acceptance by the City.

Section 5. §7-4-5(G) is hereby amended to read as follows:

**G. City Approval:**

*This plat is approved for filing and the City hereby accepts the dedication of the streets and roads shown hereon subject to the provisions in "Street Maintenance" set forth in Subsection E herein, and further accepts the dedication of the utility easements, drainage easements and non-motorized recreational use easements shown hereon.*

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

City of Cherry Hills Village

By \_\_\_\_\_  
Mayor

Section 6. §7-4-5(H) is hereby amended to read as follows:

**H. Recorder's Certificate:**

*This plat was filed for record in the office of the County Clerk and Recorder of Arapahoe County at \_\_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in Book \_\_\_\_\_, Page \_\_\_\_\_, Map \_\_\_\_\_, Reception number \_\_\_\_\_.*

Arapahoe County Clerk and Recorder

By \_\_\_\_\_  
Deputy

Section 7. §7-4-5(I) is hereby added to read as follows:

**I. Standard Notes:**

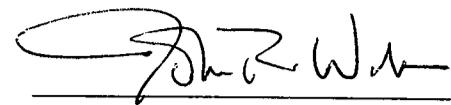
1) *Maintenance of Drainage Facilities*

*The owner(s) in possession shall be responsible for maintaining the structural integrity and operational functions of all drainage facilities located thereon. If at any time, following certification of said drainage facilities, the City deems that said drainage facilities no longer comply with the approved plans, the owner(s) in possession shall restore such facilities to the standards and specifications as shown on the approved drainage plans. Failure to maintain the structural integrity an operational function of said drainage facilities following certification will result in the City notifying all property owners whose property contributes to the facility as to the nature of the work required to bring the facility into compliance together with a request for the work to be performed in a reasonable time period. If the drainage facility is not subsequently brought into compliance with the approved drainage plans by the owner(s) in possession, or an emergency situation exists, the City may enter onto the property, cause the necessary work to be performed and file a lien against all properties contributing to the drainage facility.*

Adopted as Ordinance No. 1, Series 2000, by the City Council

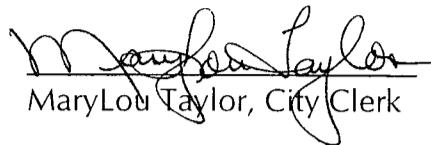
of the City of Cherry Hills Village, Colorado, this 18<sup>th</sup> day of January 2000

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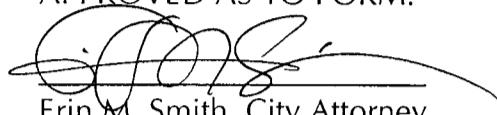
John F. Welborn, Mayor

ATTEST:



MaryLou Taylor, City Clerk

APPROVED AS TO FORM:



Erin M. Smith, City Attorney

## ORDINANCE NO. 1

## SERIES 2000

November 30, 1999: Introduced as Council Bill No. 16, Series of 1999, by Tim Roble, seconded by Dixon Shay, and considered by title only on first reading. Passed unanimously.

January 18, 2000: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 1, Series 2000.

AN ORDINANCE AMENDING THE CHERRY HILLS VILLAGE MUNICIPAL CODE TO REQUIRE OWNERS OF PROPERTY BENEFITED BY PRIVATE DRAINAGE FACILITIES AND PUBLIC AND PRIVATE DRAINAGE EASEMENTS TO BE RESPONSIBLE FOR MAINTAINING SAME; REQUIRING SUBDIVIDERS TO PROVIDE A ONE-YEAR WARRANTY FOR PUBLIC IMPROVEMENTS; AND AMENDING THE REQUIREMENTS FOR FINAL PLATS CONTAINED IN TITLE 7, CHAPTER 4, SECTION 5 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE;

WHEREAS, the City of Cherry Hills Village Municipal Code contains Chapter 7, entitled "Subdivisions"; and

WHEREAS, Chapter 4 of Title 7 contains requirements for final plats that are considered by the Planning Commission and City Council; and

WHEREAS, the City Council has determined that changes to said plat requirements are necessary to more accurately reflect the City's intent in accepting dedications and to correct certain language; and

WHEREAS, Chapter 4 of Title 7 contains requirements concerning public and private improvements; and

WHEREAS, the public health, safety and welfare is served and protected by ensuring that the construction of said public improvements is covered by a one-year warranty and the costs of operation and maintaining structural integrity of private drainage facilities is borne by those benefited by such improvements; and

WHEREAS, public drainage easements are critical to public health, safety and welfare because, among other things, they protect against flooding and property damage; and

WHEREAS, owners of properties subject to the public drainage easements are in the best position to maintain such easements and the public health, safety and welfare is served and protected by insuring such maintenance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Section 7-4-1 of the Cherry Hills Village Municipal Code is hereby amended by the addition of a new subsection (D) to read as follows:

D. Notwithstanding any provisions to the contrary, public ways, including but not limited to streets, roads, lanes and drives ("public ways"), or other public improvements, including but not limited to improvements on or in recreational trails, parks or open space, dedicated to the City for public use, must remain free from defect for a period of one year from the date that the respective public way or other public improvement is complete as determined by the City. The subdivider shall provide the City with a letter of credit issued by a bank acceptable to the City, in an amount equal to the cost of the public way or other public improvement plus a reasonable amount for contingencies, which shall be no less than 10% of such cost. Said letter of credit shall remain in place until the

anniversary of the completion of the public way or other public improvement, at which time, depending upon the condition of the public way or other public improvement, the City may, in its sole discretion, do what it deems necessary for the public health, safety and welfare, including but not limited to: (1) accept the same for maintenance; (2) require the subdivider to correct any defects in the public way or other public improvement; or (3) draw on the letter of credit to correct any defect in the public way or other public improvement. The subdivider shall be responsible for paying the City for any shortfall in the letter of credit.

Section 2. Section 7-4-2 of the Cherry Hills Village Municipal Code is hereby amended by the addition of a new subsection (C) to read as follows:

C. Maintenance of Drainage Facilities:

The subdivider and all of the owners of the properties drained by or draining into any drainage facility, including but not limited to private drainage facilities and private and public drainage easements, located on the property that is the subject of the final plat ("Benefited Owners") shall be jointly and severally responsible for maintaining the structural integrity and operational functions of said drainage facility. If at any time following certification of any such drainage facility, or any time following approval of the final plat, the City deems that any such drainage facility no longer complies with the approved plans, the subdivider and the Benefited Owners shall restore such facility to the standards and specifications as shown on the approved drainage plans. Failure to maintain the structural integrity and operational function of any such drainage facility will result in the City notifying the subdivider and the Benefited Owners as to the nature of the work required to bring the facility into compliance together with a request for the work to be performed in a reasonable time period. If the subdivider and Benefited Owners fail to bring the drainage facility into compliance with the approved drainage plans or an emergency situation exists, the City may enter onto the property and cause the necessary work to be performed at the expense of the subdivider and Benefited Owners.

The City shall invoice said subdivider and Benefited Owners for its costs and expenses. The subdivider and Benefited Owners shall within thirty (30) days of the date of the invoice, remit full payment to the City. If full payment is not made by the 30<sup>th</sup> day the City Manager may elect to have the City's costs and expenses become a lien against the properties drained by or draining into any such drainage facility as of the date the City Manager or City Manager's designee certifies the costs and expenses to the office of the County Treasurer for collection in the same manner as general property taxes are collected. A notice of the lien shall be recorded in the office of the County Clerk and Recorder for Arapahoe County. The amount of the costs and expenses may be paid to the City Finance Director at any time prior to certification of the same by the City Manager or City Manager's designee to the office of the County Treasurer, but thereafter payments shall be made only to the office of the County Treasurer. Upon receipt of the certified costs and expenses, the County Treasurer shall proceed to collect the amounts so certified against said properties in the same manner as the collection of general property taxes and the redemption thereof.

Section 3. Section 7-4-5(A) of the Cherry Hills Village Municipal Code is hereby amended to read as follows:

A. Certificate of Dedication and Ownership:

Know all men by these presents, that the undersigned, hereby beingcertify that they are all of the Owner(s), Mortgagee(s), and Lienholder(s) of certain lands in the City of Cherry Hills Village, Arapahoe County, Colorado, described as follows:

Beginning \_\_\_\_\_ etc., containing \_\_\_\_\_ acres, more or less. The undersigned have by these presents laid out, platted and subdivided the same into lots, blocks and tracts, as shown on this plat, under the name and style of \_\_\_\_\_ and do hereby dedicate to the City of Cherry Hills Village as public roads the streets and

roads as shown on said plat, these being \_\_\_\_\_ for public use the public ways shown hereon, including but not limited to, streets, roads, drives and lanes; the public lands shown hereon for their indicated public use; and the recreational trails shown hereon for non-motorized, recreational use by the public in the manner similar to other public trails throughout the City of Cherry Hills Village, subject to the applicable laws and ordinances of the City of Cherry Hills Village, and for use by vehicles appropriate for the maintenance of the trail easements by the City or its contractors. The undersigned hereby further dedicate to the City of Cherry Hills Village the utility easements shown hereon for utility purposes only. The undersigned hereby further dedicate to the City of Cherry Hills Village public all utility easements and dedicate to the City of Cherry Hills Village all bridle path easements as shown on said plat all drainage easements shown hereon for drainage purposes only.

The undersigned hereby further dedicate to the public utilities the right to install, maintain and operate mains, transmission lines, service lines and appurtenances to provide such utility services within this subdivision of property contiguous thereto, under, along and across public roads as shown on this platways, including but not limited to, roads, streets, lanes and drives as shown hereon, and also under, along and across utility easements as shown hereon.

The lands comprising this subdivision are subject to certain covenants which are recorded in

Book \_\_\_\_\_ at Page \_\_\_\_\_ of the records of Arapahoe County, Colorado.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Owner(s): Mortgagee(s) and Lienholder(s):

S.S.

County of Arapahoe

The foregoing dedication was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_, by \_\_\_\_\_.

Witness my hand and seal.

My commission expires \_\_\_\_\_

Section 4. Section 7-4-5(C) of the Cherry Hills Municipal Code is hereby amended to read as follows:

C. Title Certificate:

I, \_\_\_\_\_, an attorney at law duly licensed to practice law in the State of Colorado, state that in my opinion certify that I have examined title to the above-described land dedication to the City of Cherry Hills Village, and that the part(ies) executing the dedication have merchantable title to the above-described real property and are well seized of the property dedicated by this plat and have good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple and have good right, full power and lawful authority to dedicate the same in manner and form as aforesaid, and that same is free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature except those of record and acceptable to the City, is in the above referred to Owner(s), and is free and clear of all liens and encumbrances save and except \_\_\_\_\_.

By \_\_\_\_\_  
Attorney at Law

Or, in the alternative:

## Title Certificate:

I, \_\_\_\_\_, as authorized agent for \_\_\_\_\_ Title Company, and having the power and authority to legally bind \_\_\_\_\_ Title Company with respect to the certification made herein, hereby certify that I have examined title to the above-described land dedication to the City of Cherry Hills Village, and that the part(ies) executing the dedication have merchantable title to the above-described real property and are well seized of the property dedicated by this plat and have good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple and have good right, full power and lawful authority to dedicate the same in manner and form as aforesaid, and that same is free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature except those of record and acceptable to the City.

By \_\_\_\_\_

Agent

Title Company

Section 5. Section 7-4-5(D) of the Cherry Hills Village Municipal Code is hereby amended to read as follows:

## D. Planning and Zoning Commission Approval:

This plat was recommended for approval approved by the City of Cherry Hills Village Planning and Zoning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By \_\_\_\_\_

Chairman

Section 6. Section 7-4-5(E) of the Cherry Hills Village Municipal Code is hereby amended to read as follows:

## E. Standard Plat Notes:

1. Street Maintenance. It is mutually understood and agreed by the subdivider and the City of Cherry Hills Village that the dedicated public ways, including but not limited to streets, roads, lanes and drives, shown on this plat will not be accepted finally for maintenance by the City until and unless the Owner(s) constructs the same in accordance with the subdivision agreement, if any, and subdivision regulations in effect at the date of the recording of this plat and approval of the City has issued to that effect.

2. Covenant Concerning Maintenance of Drainage Facilities. The owner(s), its legal representatives, heirs, executors, administrators, successors in interest and assigns shall be jointly and severally liable and responsible for maintaining the structural integrity and operational functions of all drainage facilities located on the property shown hereon unless otherwise specified herein including, but not limited to, private drainage facilities other than easements and public and private drainage easements. The benefits and burdens described in this covenant shall run with the land and bind the present owner(s), its successors and assigns.

Section 7. Section 7-4-5(G) of the Cherry Hills Village Municipal Code is hereby amended to read as follows:

## G. City Approval:

This plat is approved for filing and the City hereby accepts the dedication of the public ways shown hereon, including, but not limited to, the streets, roads, drives and lanes for public use subject to the provisions contained in the Street Maintenance note herein, the dedication of public lands shown hereon, and further accepts the dedication of the utility easements, drainage easements and recreational trails/bridge path— shown hereon.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

City of Cherry Hills Village

By \_\_\_\_\_  
Mayor

Section 8. Section 7-4-5(H) of the Cherry Hills Village Municipal Code is hereby | amended to read as follows:

H. Recorder's Certificate:

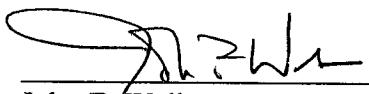
This plat was filed for record in the office of the County Clerk and Recorder of Arapahoe County at \_\_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_, 19 | \_\_\_\_\_, in Book \_\_\_\_\_, Page \_\_\_\_\_, Map \_\_\_\_\_, Reception number \_\_\_\_\_.

Arapahoe County Clerk and Recorder

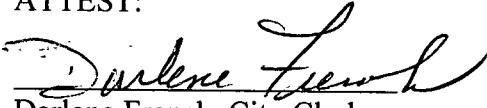
By \_\_\_\_\_  
Deputy

Section 9. Severability. If any portion of this ordinance should be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of this ordinance, which can be given effect without the invalid portion, provided such remaining portions or applications are not determined by the Court to be inoperable.

Adopted as Ordinance No.1, Series 2000, by the City Council of the City of Cherry Hills Village, Colorado, this 1<sup>st</sup> day of February, 2000+999.

  
John F. Welborn, Mayor

ATTEST:

  
Darlene French, City Clerk

APPROVED AS TO FORM:

/S/  
Erin M. Smith, City Attorney

CCHV\Ordinances  
EMS1548  
0467.7100

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